IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 21380 of 2007(T)

PETITIONER:

REEJA BHAJI, AGED 35 YEARS,
W/O.BHAJI P.JOSEPH, MC 247-WARD XIII, MUNDAKKAL,
KOLLAM.
NOW RESIDING AT PERINCHERIMANNIL HOUSE,
MALLAPPALLY EAST P.O.

BY ADV. SRI.JOSEPH GEORGE

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY**
   PRINCIPAL SECRETARY (REVENUE),
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE DISTRICT COLLECTOR, COLLECTORATE, KOLLAM.**

3. **THE REVENUE DIVISIONAL OFFICER, KOLLAM.**

4. **THE TAHSILDAR, TALUK OFFICE, KOLLAM.**

5. **THE VILLAGE OFFICER, MUNDAKKAL VILLAGE, KOLLAM.**

6. **KOLLAM MUNICIPAL CORPORATION,**
   REP. BY ITS SECRETARY.

7. **A.ASOKAN, AGED 57, S/O.D.ARUNACHALAM,**
   MC NO.265, WARD NO.XIII, LIONS NAGAR,
   MUNDACKAL, KOLLAM.

BY ADV. SRI.V.V.RAJA
SRI.R.RENJITH
SRI.M.K.CHANDRAMOHAN DAS, SC
BY GOVERNMENT PLEADER SRI. I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO. 21380 OF 2007

DATED THIS THE 6th DAY OF AUGUST, 2007

JUDGMENT

The petitioner is aggrieved by the action of the 7th respondent, who allegedly encroached into a public road, which has been in existence for years according to the petitioner and others. The petitioner submits that although Ext.P4 report has been submitted by the Village Officer to the 4th respondent confirming that the 7th respondent has encroached into public road, the 4th respondent is not taking any action on the same. The petitioner, therefore, seeks the following reliefs.

> "i) issue a writ of mandamus or other appropriate writ, order or direction commanding the 2nd respondent to consider and dispose Exhibit-P3 by a speaking order;
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> ii) declare that 5.35 ares of land comprised in field No.31/35 in block No.144 of Mundackal Village is a public pathway;
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> iii) issue a writ of mandamus or other appropriate writ, order or direction commanding the 5th respondent to remove the gate and pillars on the eastern entrance of the public road in field No.31/35 in block No.144 of Mundackal Village Kollam District and open the said road for public".

2. The 7th respondent submits that this is an abuse of process of the Court. According to him there was a suit filed as O.S.No.300/94 before the Subordinate Judge, Kollam by him against the petitioner's father in which there was a decree upholding the right of the 7th respondent in respect of the property in question. However, he admits that the Government was not a party to the said suit. In the above circumstances, I am of opinion that the 4th respondent shall consider the matter and pass a speaking order in respect of the same after conducting necessary enquiry, if necessary, considering the report of the Village Officer. This the 4th respondent shall do, after affording an opportunity of being heard to the petitioner as well as the 7th respondent or other persons, who may be affected in the matter, as expeditiously as possible,at any rate, within two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

Acd